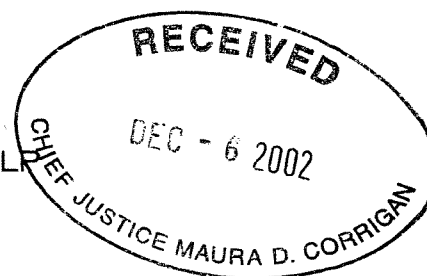


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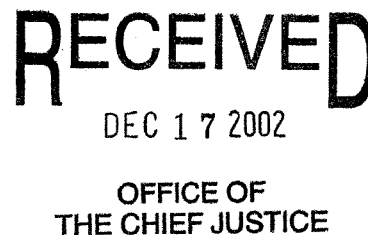
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LANSING, MICHIGAN
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December 4, 2002

Honorable Maura D. Corrigan
Chief Justice
Michigan Supreme Court
Cadillac Place
3034 W. Grand Blvd.
Detroit, Michigan 48202-6034



Re: Proposed Amendment of MRE 703

Dear Chief Justice Corrigan:

I want to again thank you and the other Justices for the opportunity to appear before you on behalf of the Civil Procedure Committee of the State Bar of Michigan on September 26, 2002. In reflecting on the concerns raised by the Court at that time, the Committee has concluded that there is a simple way to reconcile the Court's objective, i.e., preventing inadmissible evidence from tainting juries, with the concern of the Committee, i.e., permitting experts to rely on the same materials for opinions offered in court as those relied upon in their every day practices.

That solution would be for MRE 703 to be amended to read as follows:

The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence in order for the opinion or inference to be admitted. Facts or data that are otherwise inadmissible shall not be disclosed to the jury by the proponent of the opinion or inference.

The above proposal tracks the language of Federal Rule of Evidence 703, with the exception of the "unless" clause at the end. The first sentence is the same as that of the current MRE 703 and FRE 703. The second sentence, which tracks the second sentence of FRE 703, preserves the benefit of having experts testify in court on the same basis upon which they make decisions in their every day practice. The third sentence solves the problem that gave rise to the

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Honorable Maura D. Corrigan

December 4, 2002

Page 2

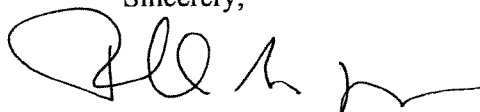
current proposals, namely, the perception that inadmissible evidence is being brought in the back door through the use of "portmanteau experts."

In addition to the above, the Committee has asked me to convey to the Court the following general comments:

1. The Committee continues to recommend that, if any change is adopted, the Court adopt the language of FRE 703, noting that both civil and criminal cases will be affected by any amendment.

2. The Committee believes that, if MRE 703 is amended to impose limits on the introduction of expert opinion, it should be done in a way that is least intrusive to the practical disciplines of experts, allowing them to bring their expertise into court.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Longhofer', with a large, stylized initial 'R'.

Ronald S. Longhofer

RSL/pg

cc: Richard Bisio, Esq.

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